

REMARKS

In response to the Office Action dated 16 January 2003, the applicant requests reconsideration of the above-identified application in view of the following remarks. Claims 1-27 are pending in the application, and are rejected. New claims 28-33 will be added upon entry of the present amendment. No new matter has been entered.

Rejections of Claims Under §103

Claims 1, 3-5, 7-16, 18-23 and 25-27 were rejected under 35 USC § 103(a) as being unpatentable over Daniel et al. (U.S. Patent No. 6,075,484, Daniel) in view of Grubb et al. (U.S. Patent No. 5,768,684, Grubb) and Yun (U.S. Patent No. 6,463,295). The applicant respectfully traverses.

The MPEP states the following with regard to rejections under 35 USC § 103: "To establish a *prima facie* case of obviousness ... there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." MPEP 2143. A Federal Circuit opinion states that the suggestion or motivation to combine references must be found in the prior art. MPEP 2143 citing *In re Vaeck*, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). In addition, the Federal Circuit, in *In re Lee*, 61 USPQ2d 1430 (Fed. Cir. 2002), requires that the suggestion or motivation to combine references "be based on objective evidence of record." The Federal Circuit also indicated that the suggestion or motivation must be specific. 61 USPQ2d at 1433.

Addressing claims 1, 16, and 22 on pages 2-3, the Office Action states that "[i]t would have been obvious to modify Daniel, such that the system has a power control unit, so that the optimally steered/beamformed antenna array also uses power control for best possible transmitted/received signal quality." Addressing claims 3 and 18 on page 3, the Office Action states that "[i]t would have been obvious to modify Daniel, such that transmit power complies with mandated transmit power levels, to ensure the system stays within regulated/licensed operating limits." The Office Action did not identify any prior art evidence as the source of these suggestions for modifying Daniel, as is required by *In re Lee*. The other rejected claims are addressed in a similar manner in the Office Action.

The applicant respectfully submits that a *prima facie* case of obviousness of claims 1, 3-5, 7-16, 18-23 and 25-27 has **not** been established in the Office Action, and that claims 1, 3-5, 7-16, 18-23 and 25-27 are in condition for allowance.

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Daniel, Grubb, and Yun, and further in view of Bolganio et al. (U.S. Patent No. 5,663,990, Bolganio). The applicant respectfully traverses.

On page 8, the Office Action states that “[i]t would have been obvious to modify Daniel, such that the beamformer has a variable delay unit which determines a delay based upon direction of the remote transceiver, to ensure that RF signals ...are adjusted...for optimal transmission. The Office Action did not identify any prior art evidence as the source of this suggestion for modifying Daniel, as is required by *In re Lee*.

The applicant respectfully submits that a *prima facie* case of obviousness of claim 6 has **not** been established in the Office Action, and that claim 6 is in condition for allowance.

Claims 2, 17 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Daniel, Grubb, and Yun, and further in view of Roddy et al. (U.S. Patent No. 6,127,740, Roddy). The applicant respectfully traverses.

On page 8, the Office Action states that “[i]t would have been obvious to modify Daniel, such that a duty cycle unit is used to determine average transmit duty cycle, to provide means for the PCU to adjust transmit power level as needed for optimal wireless transmission/reception.” The Office Action did not identify any prior art evidence as the source of this suggestion for modifying Daniel, as is required by *In re Lee*.

The applicant respectfully submits that a *prima facie* case of obviousness of claims 2, 17 and 24 has **not** been established in the Office Action, and that claims 2, 17 and 24 are in condition for allowance.

CONCLUSION

The applicant respectfully submits that all of the pending claims are in condition for allowance, and such action is earnestly solicited. The Examiner is invited to telephone the below-signed attorney at 612-373-6973 to discuss any questions which may remain with respect to the present application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

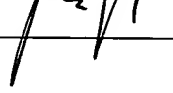
Respectfully submitted,

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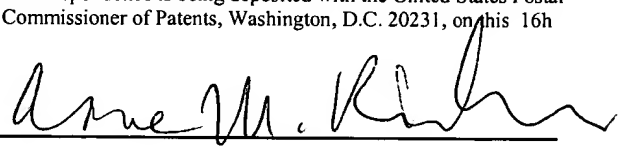
Date 16 April 2003

By 
Robert E. Mates
Reg. No. 35,271

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 16th day of April 2003.

Anne M. Richards

Name


Signature